

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX REFERENCE NO. 2 OF 1988

The Commissioner of Income Tax,
Bombay City-IV, Bombay .. Applicant
V/s.
M/s. Mahindra & Mahindra Ltd., Bombay .. Respondent

Mr. R.V. Desai with Ms. S.V. Bharucha and Mr. R.
Ashokan for the Applicant

Mr. B.V. Jhaveri for the Respondent

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.
DATED : 22.02.2005

P.C.:-

1. Heard the learned counsel for the Applicant and the Respondent. The questions referred to read as under:-

1. Whether on the facts and in the circumstances of the case, the sum of Rs. 1,02,51,954/- due by the assessee to Kaiser Jeep Corporation of America and written off by the lender was the taxable income of the assessee?

2. Whether on the facts and in the circumstances of the case, there was material before the Tribunal on the basis of which it could conclude that the waiver by American Motor Corporation of the appellant company's liability in respect of a sum of Rs. 57,74,064/- was not a waiver of loans due from the applicant company on capital account and whether the Tribunal ought to have held that the waiver by American Motor Corporation of the applicant company's liability amounting to Rs. 57,74,74,064/- was a waiver of the applicant Company's loan liability outstanding on capital account and, accordingly, the question whether any part of the sum so waived was the applicant company's income assessable under any provision of the Income-tax Act did not arise at all?

2. The learned counsel for the Applicant fairly states that the issue is squarely covered by a judgment of our Court in **Mahindra & Mahindra Ltd. v. C.I.T. 261 ITR**

501 (Bom.). In view thereof, the first question is

(2)

answered in the negative, in favour of the assessee and against the Revenue. Similarly the second question is in favour of the Assessee and against the Revenue.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)